IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.5474 OF 2006

The Maharashtra State
Co-operative Bank Ltd. .. Petitioner.
Vs.
The Maharashtra State
Farming Corporation Ltd. & Ors. .. Respondents.

Ms.Varsha Palav for the petitioner.
Mr.V.P.Sawant for respondent no.1.

CORAM : D.B.BHOSALE, J.

DATED : 29TH AUGUST, 2006

P.C.:

. Heard learned counsel for the petitioner and respondent no.1.

2. By this writ petition, the petitioner has impugned the order dated 20.4.2006 passed by the trial Court on the application at Exhibit-32 by which the said application has been allowed and the sugar bags are directed to be sold through the bailiff of the Court, at the place where those bags are stored, by public auction and has further directed to deposit the sale proceeds before the Court. Ms.Palav, learned counsel for the petitioner submits that the petitioner's application under Order 21 Rule 58 is pending before the trial Court and unless and until

the said application is disposed of the sale proceeds be not released in favour of any of the parties to the proceedings. Mr.Sawant, learned counsel for respondent no.1 on the other hand submitted that the claim of the petitioner has already been rejected by the trial Court and observations in that regard are reflected in paragraph 3 of the impugned order. After having gone through the impugned order, other material placed on record and considering the submissions of learned counsel for the parties I am satisfied that the following order shall meet the ends of justice:

. The bailiff of the court shall proceed with the auction as directed in the impugned order expeditiously. The sale proceeds shall be deposited in the trial Court. In the meanwhile, the exeucting court shall decide the application, if any, filed by the petitioner under Order 21 Rule 58 within four weeks from the date of receipt of this order. It is open for respondent no.1 to file appropriate application before the Court for allowing them to withdraw the sale proceeds to the extent they are entitled for and the Court may pass appropriate orders on such condition as may be necessary to secure the amount. With these observations the writ petition is disposed of.

(D.B.Bhosale, J.)